IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9978 OF 2004

Landed Estate Ltd ...Petitioner
vs.
The Municipal Corporation
of Greater Mumbai and anr. ....Respondents

J.M. Shah for the petitioner.

A.J. Bhor for respondent no.1.

CORAM: S.U. KAMDAR, J.

DATE : 17th November, 2005.

P.C. :

1. The present petition is filed challenging the order passed by the Small Causes Court inter-alia directing the petitioner to deposit sum of Rs.71,10,354/-.

2. It is not in dispute that out of the aforesaid amount the petitioners have deposited with the Co-operative Court an amount of Rs.28,25,270/- and that the petitioner is further entitled to set-off a further amount of Rs.7,20,297/- as per the order of Supreme Court.

Inrespect of the balance amount the plaintiff has given the bank guarantee for Rs.23 lacs. However learned counsel for the petitioner states that they will deposit the balance amount of Rs.35,62,177/- within a period of 12 weeks and on such deposit they should be allowed to withdraw the bank guarantee of Rs.23 lacs. In my opinion the offer of the petitioner is reasonable once they have deposited the entire amount of Rs.71,10,354/-. For the same arrears the bank guarantee cannot be permitted to be continued. In that view of the matter the petitioner is given time to deposit balance amount of Rs.35,62,177/- within 12 weeks. The Cooperation is directed not to take any action for recovery of the aforesaid amount by any coercive method for a period of 12 weeks. If the amount is not so deposited within 12 weeks the Appeal preferred under Article 217 to stand dismissed . Co-operation thereafter will be entitled to initiate all necessary steps for recovery of the property tax. Petition to stand disposed off in terms of the aforesaid. There shall be no order

as to costs.

sd/-